IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION
WRIT PETITION NO.1343 OF 2007

Prakash L. Asrani ...Petitioner

vs.

State of Maharashtra through
Government Pleader,High Court & Ors. ...Respondents

Mr.Sachin Masurkar for the Petitioner

CORAM: A.S.OKA,J.
DATE : JUNE 13, 2007.

P.C.:

1. Heard Advocate for the Petitioner. The challenge in this Petition under Article 226 and 227 of Constitution of India is to the recovery certificate granted in favour of the second respondent and to the orders passed in recovery proceedings on the basis of the said recovery certificate. It is an admitted position that the Petitioner has not challenged the recovery certificate by filing a Revision Application under section 154 of the Maharashtra Cooperative Societies Act, 1960 (hereinafter referred to as the said Act of 1960).

2. The submission of the Advocate for the Petitioner is that the Petitioner had long back repaid the entire loan amount. He submitted that if the revision Application is to be filed for challenging the recovery certificate, the Petitioner will have to deposit 50% of the amount due under the recovery certificate. It is submitted that as the loan is already

repaid, the Petitioner has filed Writ Petition without filing a Revision Application.

3. Whether the Petitioner has paid the loan amount or not is a disputed question of fact. The fact that the law requires compulsory deposit to be made under sub section 2A of section 154 of the said Act of 1960, is no ground to say that the Writ Petition should be entertained.

4. In view of the aforesaid discussion, Writ Petition is not entertained by leaving open the statutory remedy available to the Petitioner.

5. All contentions of the parties on merits are expressly kept open.

JUDGE